

These minutes have not been approved by the Board

**MINUTES OF THE MEETING OF THE
BOARD OF FUNERAL DIRECTING AND EMBALMING**

July 23, 2020

1. ROLL CALL

The meeting of the Board of Funeral Directing and Embalming was called to order by Steven Brunken, Chair, at 8:30 a.m., in the Nebraska State Office Building, Licensure Unit Conference Room LU1, Lincoln, Nebraska. Copies of the agenda were mailed to the Board Members and other interested parties in accordance with the Open Meetings Law.

Members Present (4):

The following members answered roll call:

Lawrence Battaglia, Secretary
Steven Brunken, Chairperson
Leo Seger, Member
Avid Wiest, Vice Chair

Others Present(3):

Kris Chiles, Program Manager, Licensure Unit
Heidi Weiland, Health Licensing Coordinator
Natalee Hart, Assistant Attorney General
Public Member

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Battaglia moved, seconded by Wiest, to adopt the agenda. A voice vote was taken. Voting aye: Battaglia, Brunken, Seger, Wiest (4). Voting nay: None (0). Absent: None (0). Motion carried.

3. APPROVAL OF MINUTES (1.23.2020)

MOTION: Seger moved, seconded by Battaglia, to approve the minutes of 1.23.2020. A voice vote was taken. Voting aye: Battaglia, Brunken, Seger, Wiest (4). Voting nay: None (0). Absent: None (0). Motion carried.

4. UPDATES AND REPORTS

a. Regulation Update: Chapters 67, 68, and 69

Chapter 69: Revised crematory regulations effective 3.22.20: https://www.nebraska.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-172/Chapter-069.pdf

Chapter 67 and 68: Revised funeral directing individual and establishment licensing regulations are in the attorney general's office as of 6.24.20 waiting to be reviewed. Our goal is by the end of the year that regulations will be finalized through the regulation promulgation and adoption process.

b. COVID-19

Phase III DHM re-opening:

All 93 counties in Nebraska are under the Phase III Directed Health Measure (DHM)
<https://dhhs.ne.gov/Documents/COVID-19-Outline-of-Changes-to-Upcoming-DHMs-Phase-III.pdf>

Phase IV DHM re-opening:

The following counties are in Phase IV DHM: Loup Basin Health Department which includes Blaine, Custer, Garfield, Greeley, Howard, Loup, Sherman, Valley and Wheeler.
<https://dhhs.ne.gov/Documents/COVID-19-Outline-of-Changes-to-Upcoming-DHMs-Phase-IV.pdf>

Executive Order 20-27:

<https://dhhs.ne.gov/Documents/EO-20-27-Credentialing-of-the-COVID-19-Workforce.pdf> and FAQ's
<https://dhhs.ne.gov/Documents/EO-20-27-FAQ.pdf>

The Department will not enforce any limit on the number of continuing education hours obtained online or by home study for renewal or reinstatement of any type of license during the State Declaration of Public Health Emergency. The Department will be as flexible as possible for renewals that take place following the emergency. If licensees obtained online or home study CE hours during the emergency because in-person courses were not available, the Department will accept those CE hours even if the renewal (expiration date) for that profession takes place after the emergency has ended. Communication will be sent to licensees once any subsequent renewal period begins so that licensees know when the limits for online or home study CE are back in place.

The Department may waive continuing competency requirements, in whole or in part, when a credential holder submits documentation that "circumstances beyond his or her control have prevented completion of such requirements." Waivers may be considered for circumstances lasting longer than 30 consecutive days that DHHS determines are beyond the credential holder's control. Such circumstances can include, but are not limited to, a shortage of available continuing competency courses resulting from an officially declared state of emergency.

- c. 2020 Legislative Session Resumed 7.20.2020 to 8.13.2020
- d. Nebraska Funeral Directing Association (NEFDA): Seger reported:
 - Scholarship meeting held and 3 individuals were awarded scholarships
 - Annual meeting is scheduled 8.20.20 online
 - Majority of association agree with the changes in the regulations but are hopeful for a few changes, fetal death to be available online, official signature from a licensed funeral director to sign un-embalmed death certificates, casket sale report; Chiles advised to contact Vital Records
- e. International Conference of Funeral Service Examination Board, Inc (ICFSEB) Wiest reported went to the annual meeting and forwarded minutes to Chiles, Chiles will forward to board members for review, next year's meeting is in New Orleans.

9:08 a.m. Wiest exited the meeting

- f. Disciplinary and Non-Disciplinary Action Reports, License and Examination Statistics

Examinations since January 1, 2020:

Jurisprudence – 7 pass, 0 fail
Vital Statistics – 8 pass
Jurisprudence (CE) – 30 pass
National Arts – 1 pass
National Science – 1 pass

(Due to COVID Jurisprudence exams have been moved to online testing and vital statistics documents are mailed to the applicant)

Chiles inquired how the board recommends responding to the Jurisprudence and Vital Statistics exams. 3 possible outcomes:

- 1) Provide the score only
 - 2) Give the applicant the question they missed and the correct answer
 - 3) Give the applicant the question they missed without the correct answer
- All board members agreed with #2.

Active license statistics:

Apprentice, full – 9
Apprentice, split 1 – 2
Apprentice, split 2 - 1

Branch Establishment – 96
Embalmer – 0
Funeral Director – 1
Funeral Director and Embalmer – 377
Funeral Establishment – 159

Chiles questioned if we should look at eliminating branch establishments and have all establishment licenses would be issued as a funeral establishment. The association would need to submit this to legislation and could possibly be included in the legislature package for education purposes.

5. INVESTIGATIONAL REPORTS & OTHER CONFIDENTIAL INFORMATION – CLOSED SESSION

No files to be reviewed.

6. REVIEW AND RECOMMENDATIONS – OPEN SESSION

Application Review for Joseph Peck – Licensed apprentice and would like consideration for early issuance of a Funeral Directing and Embalmer license due to experience and accumulation of apprenticeship hours completed from 2016-2020.

History of experience/apprentice hours reported by Peck:

He has 1 year and 5 months experience in Montana and Nebraska (apprenticeship) as a funeral director. He has a total of 6 years and 3 months funeral services experience in Montana, Nebraska and Colorado. He has met all the educational requirements, passed the national board exams, worked as an apprentice in Nebraska for many months and recently passed the jurisprudence exam in April. His Montana FDE license was issued in March 2020. He served 6 months of his apprenticeship in Nebraska from December 2015 to June 2016. He then moved to Colorado and continued performing funeral services. He changed his course and worked for 2 years as an EMT. In February 2019, he moved to Montana and worked as a mortician apprentice and received his license in Montana. In October 2019, he returned to Nebraska and was issued another apprenticeship license for 12 months. He currently is worked in Nebraska as an apprentice and would complete the 12 month apprenticeship in October 2020. He would like the board to review his case to see if he is eligible to receive his Funeral Directing and Embalmer license prior to the end of the current 12 month apprenticeship.

Chiles stated per the statutes, a 12 month apprentice must be earned in a consecutive 12 month period. Mr. Peck has worked more than 12 months as an apprentice in Nebraska but not a consecutive 12 months. Mr. Peck is asking for the Boards review and recommendation relating the completion of apprenticeship. Chiles stated that the Board's recommendation will be reviewed by the Department and perhaps DHHS attorneys to determine if he has met the intent of the statutes.

Seeger stated Peck has served enough of the apprentice time and has all intentions of becoming a funeral director and that he recommends full licensure. Battaglia agrees. Brunken asked if any applicant in the past has had the drive to plead their case to the board but also worried about setting precedence. Chiles stated no other applicants have approached the board with these circumstances. Seeger said the board reviews files on a case by case situation and he had the drive to approach the board with his concerns.

Joseph Peck – Funeral Director and Embalming Applicant

MOTION: Seeger moved, seconded by Battaglia, to recommend issuance of the license and meets the intent of the apprenticeship. A roll call vote was taken. Voting aye: Battaglia, Brunken, Seeger, (3) Voting nay: None (0). Absent: Weist (1). Motion carried.

7. ADJOURNMENT

The next meeting is scheduled for 10.23.2020 and they will evaluate closer to this time to determine if it will be a conference call or in person meeting. There being no further business, the chair declared the meeting adjourned at 10:06 a.m.

Lawrence Battaglia, Secretary
Board of Funeral Directing and Embalming

Summarized by: Heidi Weiland, Health Licensing Coordinator, Licensure Unit